



Frederick County Fire-Rescue Services

The Health Insurance Portability and Accountability Act

ANNUAL HIPAA TRAINING

Overview

- What is HIPAA?
- Penalties for Non-compliance
- What is PHI?
- The Privacy and Security Rules
- Protecting Patient Privacy
- Understanding HIPAA Privacy
- Safeguarding PHI
- Obligations (DFRS and Provider)
- Procedures for Disclosure
- Common Questions/Concerns
- Summary

WHAT IS HIPAA

- HIPAA is the acronym for the “Health Insurance Portability and Accountability Act of 1996.

HIPAA

- HIPAA applies to most health care providers, including Frederick County Fire and Rescue Personnel and other pre-hospital care providers

What is HIPAA?

- Federal legislation first passed in 1996
- Part of the Social Security Administration Act that
 - Protects confidentiality and security of health information as it is used, disclosed, and electronically transmitted
 - Creates a standard framework for transmitting electronic protected health information (ePHI)

Who Does HIPAA Impact?

- HIPAA Issues for EMS Providers
 - Protecting Patient Privacy – on the scene, enroute to the hospital and after the call is finished
 - Safeguarding Patient Information – keeping all patient information (PHI), printed and electronic, safe and secure
- HIPAA requires modifications on how health information is handled and maintained
 - More client involvement in permitted PHI (Protected Health Information) disclosure
 - More accountability about permitted PHI disclosures

Penalties for Non-Compliance

- Legislated:
 - Civil- \$1000.00 per violation (up to \$25,000 per year) for each requirement of rule violated
 - Federal Criminal- Up to \$50,000 and 1 year in prison for disclosing protected health information (PHI) & up to 5 years and \$100,000 for getting PHI under false pretenses
 - Up to \$250,000 and 10 years for obtaining or disclosing PHI for sale, commercial advantage, personal gain, or malice.

Penalties for Non-Compliance

- Liability may fall to the individual
- Sanctions within Frederick County Fire and Rescue Services
 - Disciplinary actions up to and include termination of employment/membership
- EMS Licensure/Certification
 - May result in Jurisdictional Medical Director action against your professional credentials in Frederick County
 - MIEMSS action up to and including revocation of your license/certification

Penalties for Non-Compliance

- Known Violation:

- November 28th, 2006:

LPN from Trumann, Arkansas was sentenced 10 years and \$ 250,000 in restitution for wrongfully disclosing PHI for personal gain.

Penalties for Non-Compliance

- Known Violation:

- July 26th, 2013:

Walgreens customer in Marion County, Indiana was awarded \$1.44 million dollars based on allegations that the Pharmacist accessed, reviewed and shared customers prescription history with others who then used the information to intimidate and harass the customer.

What is PHI?

- Protected Health Information

- Health information collected on an individual, including demographics or other potentially identifying material that is created or received from a health care provider relating to the past, present or future physical or mental health of the individual.
- It can be Oral, Written, Digital, Photographic, Electronic, etc.....

(Example: pictures of an accident scene with a vehicle's license plate showing?)

What is PHI?

- Individually identifiable data
 - Name, DOB, SSN, address, insurance information
 - Phone number(s), email address
 - License Numbers
- Verbal, paper, or electronic
- Past, present, future medical condition/treatment information
- Vehicle identifiers and serial numbers
- Dispatch printouts
 - Map X/Y or latitude/longitude information
- Documents for insurance/treatment/pharmacy records, etc. obtained during your encounter

What is PHI?

•Some common sources of Protected Health Information (PHI) include:

- Patient Care Reports (PCR) – both written/printed and electronic
- Dispatch/Call Intake Records
- Billing Information
- Hospital “Face Sheets”
- Incident Reports with Patient Information
- Verbal Communications between Health Care Providers
- Patient Records from Hospitals and other Health Care Facilities
- Physician Certification Statements

The Golden Rule

**What You See Here
What You Hear Here
When You Leave Here
Stays Here!**



**If you were not there and did not provide
patient care, you do not need to know
PHI!!**

Three Basic Permitted Uses of PHI

1. Treatment

- You may freely share PHI with other health care providers who are involved in patient care
- Facilities may give PHI to the ambulance service and vice versa (e.g., transfers)
- The “minimum necessary” rule does not apply to treatment-related disclosures

2. Billing/Payment

- Frederick County Fire and Rescue Services utilizes third party billing vendor to file claims with payers and/or patients. In addition, collects revenues from payers and patients.

3. Health Care Operations

- Includes Quality Assurance or Continuous Quality Improvement, Training and certain management functions
- The “minimum necessary rule” applies: *Disclose the minimum amount needed to perform the function*

Protecting Patient Privacy

Treatment , Billing and Health Care Operations

- **How does Frederick County Fire and Rescue fit in to this?**
 - **Treatment:** All Frederick County Fire and Rescue Personnel follow all HIPAA regulations
 - **Billing/Payment:** Third party billing vendors and FCFRS billing staff adhere to all HIPAA regulations that pertain to them.
 - **Health Care Operation:** Follow all HIPAA regulations

TRUE



FALSE



Protecting Patient Privacy

- Protecting Patient Privacy

- How can YOU protect your patient's privacy?

- Respect the privacy and confidentiality of patient information as you would your own.

- Do not share PHI with others who are not directly involved in the patient's care, except when required or permitted by HIPAA to do so.

- In general, keep disclosures to the "minimum amount necessary" to get the job done.

What Disclosures are Authorized?

- Information directly to the patient or guardian/Healthcare Power of Attorney (HCPOA)
- Required disclosures regarding abuse/neglect of elders, children, the disabled
- To report a crime, or to avert a serious threat to the health or safety of the public
- Data for research approved by our Medical Review Board
- These disclosures are still recorded!

Limiting Inadvertent Disclosures

- Ask spectators to move away
- Position yourself to obscure view and minimize volume of speech necessary to discuss PHI with patients/providers, unless it impacts care or safety
- Hold no discussions regarding your patients or your calls with persons who have no legitimate need to know
- Have necessary discussions in protected areas when possible
- Comply with EMS Policy

Limiting Inadvertent Disclosures

- Give report to ER nurse away from the crowd
- Use softer volume when speaking
- Use most secure type of transmission available
- Destroy, using supplied shredders, any handwritten notes containing PHI once they have been entered to your report
- Destroy any extra printed copies of the patient care report (PCR) using a shredder
- Be aware of your surroundings during permissible oral disclosures to limit those who may overhear

Understanding HIPAA Privacy

- **Dispatch and Response**

- Can the dispatcher transmit PHI over the radio?

Yes! We need to know where we're responding to. Names will be omitted to protect privacy. Remember the dispatch information (including address) is PHI!

- Can you share PHI over the radio with other responding agencies?

Yes! HIPAA does not prevent oral communication for treatment purposes. Again, do not use names over the radio.

- Help! I cannot find the address. Can I ask a neighbor for directions?

Yes. It is permissible to ask a neighbor how to get to an address just do not disclose any information about the call.

REMEMBER: What is said over the radio is heard by EVERYONE!!

Understanding HIPAA Privacy

- On Scene

- Can you discuss the patient's condition with first responders and other on scene providers who are providing patient care?

- Yes! HIPAA does not prevent oral communication for treatment purposed.

- Can you discuss PHI with family members?

- Family and friends present during the incident may receive only the necessary information to effect proper patient care OR information specifically authorized by the patient.

- If the patient is conscious and alert, patient must authorize any disclosure

- If the patient is unconscious or has altered mental status, disclose information only necessary to effect patient care, limiting as much PHI as possible!

Understanding HIPAA Privacy

- What about talking to the media or bystanders?
 - **NO.... Do NOT disclose any PHI to the media or bystanders. If they desire any information refer them to the Incident Command Officer.**
- Take reasonable steps to minimize “Incidental Disclosure”
 - Minimize information left on copiers that can be discovered by someone else.
 - Minimize discussion about treatment options for a patient that can potential be overheard by someone without a need to know.
 - Minimize PHI left in EMS room at the receiving facility
 - Minimize PHI left in the ambulance
 - Make appropriate facility selection to prevent ePCR report being submitted to wrong facility.

Understanding HIPAA Privacy

- ENROUTE to the Hospital and At the Hospital

- Can you give a report to the Hospital while enroute?

Yes! However, try to minimize incidental disclosures and use the most secure transmission option possible. Do not use patient names over the radio.

- Can you give a verbal report to hospital staff?

Yes! HIPAA does not prevent oral communication for treatment purposes. Try to minimize incidental disclosures; this does not mean you need to find a “sound-proof” room, but means use an inside voice and do not give a report in a public place (such as hallway, elevator, etc.)

- Can you obtain a face sheet (billing information) from the hospital ?

Yes! You may obtain a facesheet or billing information from the facility. Keep in mind that the document will contain PHI and must be handled with the same care and consideration as all other PHI.

Understanding HIPAA Privacy

- After the Call
 - Can the call be subject of discussion?

Short answer NO! However, the call may be subject of discussion if and only if, the disclosure of PHI is minimized and is for a specific Health Care Operation such as Quality Improvement or Critical Incident stress Debriefing.

DO NOT talk about your EMS calls in public places where they may be overheard by members of the public, nor share information on Social Media.

The Privacy Rule

- Designed to protect information while allowing it to flow without impeding care or public health
- Primarily implemented through policies, procedures, and education
- These tools should ensure confidentiality and restrict disclosure

The Security Rule

- Protects the same information when it is stored or transmitted electronically
- Designed to guard integrity, confidentiality, and availability through:
 - Administrative procedures
 - Physical safeguards
 - Technical security measures
 - Transmission protection standards

Safeguarding *Written* PHI

- PCR's should not be left unattended in the open
- PCR's should be maintained in a locked cabinet with limited, role-based access
- Must also safeguard written notes, dispatch print outs, physician certifications, etc. that contain PHI
- PCR's and other PHI should not be posted or used as "examples" unless identifying information is removed

Safeguarding *Electronic* PHI

- Implement password protection to computers or networks where PHI is maintained
- Include confidentiality statements on e-mails and fax cover sheets
- Keep fax machines which receive PHI in a secure location and ensure others to whom you fax PHI do the same
- Use encryption technology for the electronic transmission of PHI
- *ePCR vendor is responsible for the security of electronic transmission data and storage*

Personnel Obligations

- Complete required training
- Safeguard records, computers, and verbal PHI
- Give (and ensure patient or guardian understands) our privacy practices. Obtain signatures of receipt and understanding
- Know how the regulation impacts you
- Report violations to supervisors

Notice of Privacy Practice / Patient Signature Requirements

- “Notice of Privacy Practices” (NPP)
 - Tells patient about their rights under HIPAA
 - Contains information about FCFRS’s privacy policies and procedures
 - Furnish to patient at time of service
 - Obtain signed acknowledgment

Patient Signature Requirements

- Always attempt to obtain signature from patient verifying receipt of notice.
 - WHEN??:
 - At the time of service
- If patient under duress, unconscious, incapacitated, or serious emergency:
 - Focus on patient care first!
- If patient cannot sign?
 - Document Reason thoroughly
 - Attempt to get signature of a legal guardian, power of attorney, family member, or facility representative

Physical Security Initiatives

- Keep station doors locked in accordance with policies
- Maintain custody of PCR laptops as directed by policy
- Identify and/or report suspected unauthorized persons on EMS property, incident scenes, or hospital private areas

Physical Security Initiatives

- Maintain record storage bins in functional, locked condition per policy
- Transfer printed records directly to staff at hospitals and EMS printed copies directly to secure storage per policy
- Keep on your person your County ID and all access cards for access to restricted areas
- Stay up-to-date by changing laptop passwords on encrypted PCR devices
- Do not attempt save PHI to other devices

Physical Security Initiatives

- Medical Records storage cabinets will remain locked whenever a record is not actively being removed or replaced
- Archived Records storage facilities will be locked when not occupied and the premises will be alarmed
- Any office in which paper PHI is handled but that does not use specialized, locking storage bins will remain locked when not occupied
- Frederick County IIT & ePCR vendor encrypts all computers on which PHI is managed

Contact the Compliance Officer if you:

- Receive requests from government agencies, subpoenas, summons or search warrants
- Record request from LEO
- Receive a complaint (staff if prohibited from retaliating against anyone who makes a complaint)
- Receive request to amend PHI
- Make or know of an inadvertent disclosure of PHI
- Have any questions about HIPAA issues

Emergency Disclosures

- To prevent possible immediate threats to individuals or the public, including general public health, an EMERGENCY DISCLOSURE can be made to anyone reasonably able to reduce the threat

Emergency Disclosures to LEOs

- One of our toughest HIPAA issues to manage is communication with Law Enforcement Officers (LEOs)
 - Generally not HIPAA covered entities
 - They often have legal rights to access PHI
 - They often “need to know” PHI to do their job
 - Are trained to extract information from those who have it
 - We have relationships we’d like to maintain

Emergency Disclosures to LEOs

- Disclosure to Law Enforcement Officer Permissible When:
 - You are permitted to disclose a patient's PHI (orally) to LEO under the following circumstances:
 - Identifying or locating a suspect, material witness, or missing person
 - Victim of a crime
 - Abuse, neglect or domestic violence of;
 - Believe that the patient is escaped from prison or other lawful custody
 - Patient admits to EMS personnel, participation in a violent crime that may have caused serious physical harm to others
 - *If presented with a subpoena or summons for PHI, it should be forwarded to the HIPAA Compliance Officer for appropriate action!!***

Emergency Disclosures NOT Court Ordered

- Limit disclosure to:
 - Name and address
 - Date of birth (place if known)
 - Social Security Number
 - Type if injury
 - Date and time treated
- Distinguishing Physical Characteristics:
 - Height, Weight, Eye Color, Hair Color, Scars/tattoos, and +/- Facial Hair

Patient previous medical history and specific treatments rendered should not be disclosed!

Breach of Unsecured PHI

- A breach is the acquisition, access, use or disclosure of unsecured PHI in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.

Breach of Unsecured PHI

- Must Notify patient if:
 - Non-encrypted PHI improperly disclosed
 - PHI breached in any other way
- FCFRS must also report breaches to US Department of Health and Human Services

(Example: Stolen Laptop, lost patient care report, etc.)

Reporting a Suspected Breach of PHI

- All Frederick County Fire and Rescue personnel who know of or suspect improper disclosure of PHI:
 - Must notify HIPAA Compliance Officer.
- The HIPAA Compliance Officer will notify management about suspected incident.
- **IMPORTANT!!**
 - “Code of Silence” is NOT acceptable
 - Review policy Section: V, Sub- Section 5.01.11 to understand responsibilities

What if the Patient Requests Medical Records?

- Refer all requests to the EMS Billing office. These include:
 - Patient/Guardian/Health Care Power of Attorney (HCPOA) requests
 - Law Enforcement/Courts/Insurance Companies/Attorney requests
 - Requests should be directed to HIPAA Compliance Officer

What if the Patient Requests to Restrict Disclosure of Their PHI?

- Refer the patient or guardian/HCP/POA to the EMS Billing office.
- Inform them that they are allowed to make this request
- Inform them that these requests will ultimately be reviewed by the HIPAA Compliance Officer

What if the Patient Requests to Amend Medical Records?

- Refer these request to the Billing Office
- HIPAA Compliance Officer will review these requests
- Patient's request/desired amendments will be included with medical record file
- HIPAA Compliance Officer will decide if PCR will be amended

Common Questions/Concerns Related to HIPAA

- First responder crews inquire about the patient's working diagnosis/outcome on a call both of us responding to earlier. As this was related to care after they left the patient, is this disclosure permitted?
 - This information is being relayed to a treating healthcare provider with whom the patient established a relationship. It is also a quality assurance measure to help inform future treatment and care decisions for similar patient encounters. It IS permissible to disclose this to responders who were on the call in secure surroundings.

Common Questions/Concerns Related to HIPAA

- I reported to a relieving crew that I responded to a drowning patient (so that the crew will give extra attention to the vehicle check off). They asked about the patient's clinical course, and the events leading up to the drowning. Can I disclose this to them?
 - NO. As the crew was not a provider of care to your patient, and because victim identities often become public (this may allow a crew to associate other PHI to a name), this information cannot be disclosed. Such a case may be recommended for review in a formal peer review session, in which de-identified information may be used to illustrate valuable teaching points.

Common Questions/Concerns Related to HIPAA

- A police officer asks you at an accident scene if the patient appears to have been drinking
 - It's the officers' duty to determine if the patient has been drinking (field sobriety/breathalyzer tests). EMS Personnel should only point the obvious (For example: alcoholic containers on scene or the patient admits to have been drinking)

Common Questions/Concerns Related to HIPAA

- After a motor vehicle collision incident, police officer stops by the station and asks for a copy of your PCR for the patient you transported to the hospital
 - If his/her purpose for requesting the PCR is not related to Treatment, Payment or Healthcare Operations, the PCR will not be given without subpoena.
 - Refer requesting Officer to the HIPAA Compliance Officer

Common Questions/Concerns Related to HIPAA

- After a motor vehicle collision incident, police officer inquires if patient John Doe was transported to Alpha Beta Hospital. Can you provide an answer to this question?
 - YES!! The information is necessary to the investigation.

Summary

- Your practices should allow care, ensure the patient's privacy and safety, and comply with law
- Professional discretion is necessary in making limited disclosure to non-treating 3rd parties necessary to effect patient care
- Compliance with the Division's implementation of HIPAA policies is a condition of employment

Summary

- FCFRS policies dictate the actions to be taken in the event of a lost electronic device containing PHI
- Personnel are responsible for complying with required behaviors to help reduce the risk of loss
- Discretion, technical safeguards, and professional work practices will protect us and the patient

Summary

- Law enforcement request for PHI are challenging to navigate
 - In general, disclosures to prevent immediate harm to others or prevent immediate collapse of investigations are permitted
 - Permission from the patient should always be obtained where possible
 - All Court ordered disclosures to LEOs must be obtained from the HIPAA Compliance Officer

Summary

- The EMS HIPAA Compliance Officers is:
 - Tawanda Bailey
 - Please contact her with any HIPAA questions
 - All inadvertent disclosures should be reported *immediately* upon recognition

Remember!



✓ HIPAA

✓ HIPAA

✓ HIPAA

Please get in the habit of using the correct
acronym!!!

Remember!

**What You See Here
What You Hear Here
When You Leave Here
Stays Here!**